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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/241,127 02/01/99 SCHWINN

G HH253-KFM

EXAMINER

IM52/0522

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RUDDOCK, II

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/241,127

Applicant(s)
Georg Schwinn

Examiner
Ula C. Ruddock

Art Unit
1771



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 11, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 5, 2001, for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/241,127 is acceptable and a CPA has been established. An action on the CPA follows.
2. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed May 11, 2001.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1-8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strack et al. (US 5,681,645), as shown in Paper #6. Rejection is maintained.

Response to Arguments

5. Applicant's arguments filed May 11, 2001, have been fully considered but they are not persuasive for the reasons set forth. Applicant has amended the claims to read "consisting essentially of" in order to substantially close the claim. The use of "consisting essentially of" only excludes components that will affect the basic and novel characteristics of the invention. Applicant argues that the additional layer of material in Strack et al. would impair the elastic characteristics. This argument is not persuasive because even with the additional layer, the laminate of Strack has stretchability. The degree of stretch is limited by the inherent stretch of the

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starting textile, i.e. knit or woven or scrim (col 12, ln 61-64). Therefore, the additional layer in Strack et al. has no effect on the flexibility of Strack's laminate.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock *Ucr*
Patent Examiner
Art Unit 1771
May 18, 2001

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER